



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,482	07/13/2001	Edward W. Baldwin	R7560/261132	3693

23370 7590 09/17/2003

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

EXAMINER

LANGE, WAYNE A

ART UNIT

PAPER NUMBER

1754

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
905482	Baldwin	
Examiner	Group Art Unit	
Langel	1754	

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- Responsive to communication(s) filed on _____
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) 14-18 is/are withdrawn from consideration.
- Claim(s) 1-13 is/are allowed.
- Claim(s) 1-18 is/are rejected.
- Claim(s) 1-18 is/are objected to.
- Claim(s) 1-18 are subject to restriction or election requirement

Application Papers

- The proposed drawing correction, filed on _____ is approved disapproved.
- The drawing(s) filed on _____ is/are objected to by the Examiner
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- All Some* None of the:
- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 Interview Summary, PTO-413
- Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit 1754

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-13, drawn to a method for dissociating water into hydrogen and oxygen, classified in Class 423, subclass 579.

II. Claims 14-18, drawn to an apparatus for producing hydrogen, classified in Class 422, subclass 129.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus, such as one which does not include a solution reservoir in fluid communication with a reaction vessel and comprising a movable barrier dividing the reservoir into a first compartment and a second compartment.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications, restriction for examination purposes as indicated is proper.

Art Unit 1754

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, and vice versa, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Gray on September 8, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (e) The invention was described in (1) an application for patent, published under Section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an

Art Unit 1754

application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Andersen et al. '360. No distinction is seen between the process disclosed by Andersen et al. '360, and that recited in applicant's claims. Andersen et al. '360 discloses a method for producing hydrogen consisting of reacting aluminum with water in the presence of sodium hydroxide, wherein the apparatus employed for carrying out the method uses the pressure and temperature of the reaction to control the degree of immersion of a fuel cartridge in water and consequently to control the vigor and duration of the reaction. (See column 2,

Art Unit 1754

lines 47-62 and column 3, line 50 - column 4, line 30.) Andersen et al. '360 specifically discloses in the paragraph bridging columns 3 and 4 that the vigor of the reaction depends upon the surface of contact between the aluminum and water, and further discloses at column 10, lines 6-41 that the fuel cartridge contains aluminum for the reaction.

Claims 1-13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, penultimate line, in the term "in response to changes therein", it is indefinite as to whether "therein" refers to the aqueous liquid, or to the temperature and/or pressure. If the term refers to changes in the temperature and/or pressure, the term would be redundant since the claim already requires that the surface area is controlled in response to the temperature and/or pressure. Such response could only be made by changes to such temperature and/or pressure.

Chaklader is made of record for disclosing a method for generating hydrogen from water, and teaching that the evolution of hydrogen gas is dependent on several factors, namely, temperature, pH, proportion and particle size of ingredients and mixing conditions.

Art Unit 1754

Baldwin et al. is made of record for disclosing a catalytic alloy that is capable of dissociating water into hydrogen and oxygen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (703) 308-0248. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (703) 308-3837. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

WAL:cdc

September 10, 2003

Wayne A. Langel
WAYNE A. LANGEL
PRIMARY EXAMINER